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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|-----------------------|---------------------|------------------|
| 09/638,570 | 08/14/2000 | Roger William Gutwein | 7721M | 9947 |
| 27752 | 7590 | 01/24/2006 | EXAMINER | |
| THE PROCTER & GAMBLE COMPANY INTELLECTUAL PROPERTY DIVISION WINTON HILL TECHNICAL CENTER - BOX 161 6110 CENTER HILL AVENUE CINCINNATI, OH 45224 | | | WEIER, ANTHONY J | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1761 | |

DATE MAILED: 01/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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| | | | |
|------------------------------|--------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 09/638,570 | Applicant(s) GUTWEIN ET AL. | |
| | Examiner Anthony Weier | Art Unit 1761 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 55-79 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 55-79 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Double Patenting Rejections

1. The double patenting rejections have been withdrawn in view of the Terminal Disclaimer received 12/8/05 which has been approved.

Claim Rejections - 35 USC § 102

2. Claims 55, 63, and 64 are rejected under 35 USC 102(e) as being anticipated by Jefferson, Jr. et al.

The claims stand rejected for the reasons set forth in the last Office Action (mailed 9/8/05).

Claim Rejections - 35 USC § 103

3. Claims 56 and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jefferson, Jr. et al taken together with Anson (U.S. Patent No. 5584229).

The claims stand rejected for the reasons set forth in the last Office Action (mailed 9/8/05).

4. Claim 56 and 58-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jefferson, Jr. et al taken together with Cheng et al.

The claims stand rejected for the reasons set forth in the last Office Action (mailed 9/8/05).

5. Claim 57 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jefferson, Jr. et al taken together with Kino et al.

The claims stand rejected for the reasons set forth in the last Office Action (mailed 9/8/05).

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6. Claims 65, 66, 71, and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jefferson, Jr. et al taken together with Borland et al.

The claims stand rejected for the reasons set forth in the last Office Action (mailed 9/8/05).

7. Claims 67-79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jefferson, Jr. et al.

The claims stand rejected for the reasons set forth in the last Office Action (mailed 9/8/05).

8. Claims 61 and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jefferson, Jr. et al taken together with GB 2111377.

The claims stand rejected for the reasons set forth in the last Office Action (mailed 9/8/05).

Response to Arguments

9. Applicant's arguments filed 12/8/05 have been fully considered but they are not persuasive.

Applicant argues that Jefferson, Jr. et al does not store brewed coffee extract in contact with coffee grounds for the time as called for in the instant claims and that Jefferson, Jr. et al teaches away from this practice by the recitation that "undesirable compounds are normally released into brewed coffee when the hot water remains in contact with the ground coffee beans for relatively long duration." However, Jefferson et al does not release the coffee extract stored in the brewer for a certain period of time which includes, for example, 10 minutes from the onset of brewing (e.g. the last line of

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the Abstract). Clearly, while the extract is being held therein same is in contact with coffee grounds. Furthermore, as called for in the instant claims a resulting coffee extract is brewed in the brewer. Jefferson, Jr. et al does not teach away from holding the coffee extract therein for the entire time range as called for in the instant claims. Quite the contrary, Jefferson, Jr. et al calls for such storage for a time of, for example, 10 minutes which falls within the range called for in the instant claims. Nevertheless, Jefferson, Jr. et al's recitation of "relatively long duration" is taken to mean a much greater length of time well in excess of the storage times specifically called for by Jefferson, Jr. et al.

Applicants argue that there is no motivation to combine the secondary references as applied in the rejections above. However, it should be noted that motivation has been provided for combining each of these references with Jefferson, Jr. et al. Moreover, these references were not relied on for teaching the storage of the coffee extract in contact with coffee grounds for from about 5 minutes to about 48 hours after onset for brewing the extract. Jefferson, Jr. et al already discloses such claim limitation (as further explained above) and the secondary references were not applied for such teaching.

All other arguments have been addressed in view of the rejections above.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Weier whose telephone number is 571-272-1409. The examiner can normally be reached on Monday-Thursday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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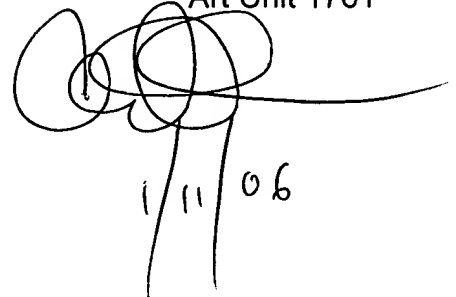
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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Anthony Weier
January 11, 2006

Anthony Weier
Primary Examiner
Art Unit 1761



1/11/06